

**TYSON & MENDES LLP**  
GRIFFITH H. HAYES  
Nevada Bar No. 7374  
Email: [ghayes@tysonmendes.com](mailto:ghayes@tysonmendes.com)  
**CHRISTOPHER A. LUND**  
Nevada Bar No. 12435  
Email: [clund@tysonmendes.com](mailto:clund@tysonmendes.com)  
2835 St. Rose Pkwy., Suite 140  
Henderson, NV 89052  
Telephone: (702) 724-2648  
Facsimile: (702) 410-7684  
*Attorneys for Defendant IMI Miracle  
Mall LLC*

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

ELIZABETH TUCKER, individually,

Plaintiff,

v.

IMI MIRACLE MALL LLC DBA MIRACLE  
MILE SHOPS, a Foreign Limited-Liability  
Company; and DOES I through X, inclusive,

Defendants.

Case No. 2:23-cv-01794-JAD-DJA

**STIPULATION AND ORDER  
REGARDING PLAINTIFF'S SECOND  
AMENDED COMPLAINT**

**(Second Request)**

**IT IS HEREBY STIPULATED AND AGREED** by and between Plaintiff ELIZABETH TUCKER ("Plaintiff"), by and through her attorney Yvonne Ruiz, Esq. of MAROLA & RUIZ LAW GROUP PLLC and Defendant IMI MIRACLE MALL LLC ("IMI") by and through its attorney Griffith H. Hayes, Esq. of TYSON & MENDES, LLP:

**FACTS**

1. The incident occurred on November 15, 2021. Plaintiff's original complaint ("Complaint") was filed on August 8, 2023. IMI is the only named defendant. IMI filed its amended answer to the Complaint on September 13, 2022.
2. A service agreement was in place at the time of the subject incident between IMI and ESC Federal LLC ("ESC FED") for janitorial services at the Miracle Mile. ESC FED is an owner-operated, national, and fully integrated building and facilities services

1 provider and is part of a family of companies which include Environmental Services  
2 Concepts LLC (“ESC”). ESC is the named insured in a liability insurance policy  
3 issued by Markel American Insurance Company (“MARKEL”). Prior to the filing of  
4 the Complaint, IMI tendered the defense and indemnity of the complaint to ESC FED  
5 pursuant to a written contract which included an express indemnity provision and an  
6 additional insured provision in favor of IMI. MARKEL accepted the tender and  
7 assigned Tyson and Mendes to represent the interests of IMI.

- 8 3. The First Amended Complaint (“FAC”) was filed on February 29, 2024.
- 9 4. The FAC named ECS Federal, LLC (not ESC FED) as an additional Defendant.
- 10 5. Following the filing of the FAC, the parties had discussions regarding the proper  
11 defendant entity. Counsel for IMI advised counsel for Plaintiff that the correct entity  
12 to be named was ESC and that Counsel for IMI would also be representing ESC since  
13 the same insurance carrier, MARKEL, agreed to defend both IMI and ESC under the  
14 ESC MARKEL policy.
- 15 6. Pursuant to the conversations between counsel, it was agreed that Plaintiff mistakenly  
16 named ECS Federal (not ESC FED) and not the proper entity ESC that was the  
17 named insured under the MARKEL policy. Counsel for Defendant acknowledged that  
18 there was some issue as to the correct entity and agreed the mistake was  
19 understandable and innocent.
- 20 7. Plaintiff claims there are no statute of limitations issues and that the FAC relates back  
21 to the filing of the Complaint which was filed within two years of the subject incident  
22 which occurred on November 15, 2021.
- 23 8. Defendant ESC, who will be represented by the same firm (Tyson & Mendes LLP)  
24 representing IMI, is reserving the right to argue the complaint does not relate back as  
25 to ESC but will file an answer to the Second Amended Complaint (“SAC”) and  
26 potentially file a Motion for Summary Judgment later after discovery is conducted.
- 27 9. The Answer of ESC to the SAC shall be filed ten (10) days after the entry of this  
28 Stipulation and Order.

10. ESC is aware of this stipulation and agrees to be bound by this stipulation. Once ESC makes an appearance in the case by filing an answer to the SAC, counsel of record for both IMI and ESC will be Tyson & Mendes LLP.

11. A copy of the SAC is attached as **Exhibit "A"**.

The Dated this 24<sup>th</sup> day of June 2024.

Dated this 24th day of June 2024.

**MAROLA & RUIZ LAW GROUP PLLC**

**TYSON & MENDES LLP**

/s/ Yvonne Ruiz

ELAINE H. MARZOLA

Nevada Bar No.: 12442

YVONNE RUIZ

Nevada Bar No: 14111

8975 South Pecos Road, Suite 6B

Henderson, Nevada 89074

*Attorneys for Plaintiff*

/s/ Griffith H. Hayes

GRIFFITH H. HAYES

Nevada Bar No. 7374

CHRISTOPHER A. LUND

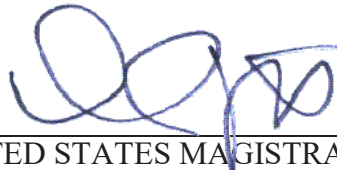
Nevada Bar No. 12435

2835 St. Rose Pkwy., Suite 140

Henderson, NV 89052

*Attorneys for Defendant IMI Miracle Mall  
LLC*

**IT IS SO ORDERED.**



UNITED STATES MAGISTRATE JUDGE

DATED: 6/25/2024

**From:** [Yvonne Ruiz](#)  
**To:** [Heidi Brown](#); [Griffith Hayes](#)  
**Cc:** [8c750dbbd+matter1365602871@maildrop.clio.com](mailto:8c750dbbd+matter1365602871@maildrop.clio.com); [Kelly Knaus](#)  
**Subject:** RE: Tucker v. IMI ( 23-3388)  
**Date:** Monday, June 24, 2024 4:24:50 PM  
**Attachments:** [image002.png](#)  
[image003.png](#)

---

You may affix my electronic signature.

Sincerely,

**\*Please note our new office address\***

Yvonne Ruiz, Esq.  
Marzola & Ruiz Law Group PLLC  
8975 S. Pecos Rd., Suite 6B  
Henderson, Nevada 89074  
T: 702-707-4878  
F: 702-846-0776  
D: 702-800-5961  
Licensed in Nevada and California  
[yvonne@marzolaruizlaw.com](mailto:yvonne@marzolaruizlaw.com)  
[www.marzolaruizlaw.com](http://www.marzolaruizlaw.com)



Confidentiality Notice: This message and any attachments are for the named person's use only. The message and any attachment may contain confidential, proprietary, or privileged information. No confidentiality or privilege is waived or lost by any mistransmission. If you receive this message in error, please immediately notify the sender, delete all copies of it from your system, and destroy any hard copies of it. Please do not, directly or indirectly, use, disclose, distribute, print, or copy any part of this message if you are not the intended recipient. Further, this message shall not be considered, nor shall it constitute an electronic transaction, non-paper transaction, and/or electronic signature under any and all electronic acts including the Uniform Electronic Transfer Act and/or the Electronic Signatures in Global and National Commerce Act.

---

**From:** Heidi Brown <[HBrown@TysonMendes.com](mailto:HBrown@TysonMendes.com)>  
**Sent:** Monday, June 24, 2024 4:05 PM  
**To:** Yvonne Ruiz <[yvonne@marzolaruizlaw.com](mailto:yvonne@marzolaruizlaw.com)>; Griffith Hayes <[ghayes@TysonMendes.com](mailto:ghayes@TysonMendes.com)>

**Cc:** 8c750dbbd+matter1365602871@maildrop.clio.com; Kelly Knaus <kknaus@tysonmendes.com>

**Subject:** Tucker v. IMI ( 23-3388)

**Importance:** High

Dear Ms. Ruiz,

Attache for your review and approval please find the Stipulation and Order Regarding Plaintiff's Second Amended Complaint along with the exhibit. Please let me know if we can affix your signature and submit it to the court. Thank you.



Heidi Brown

**Legal Assistant**

2835 St. Rose Pkwy., Suite 140

Henderson, NV 89052

Phone: 702.724.2648

Direct: 725.241.6133

Fax: 702.410.7684

[hbrown@tysonmendes.com](mailto:hbrown@tysonmendes.com)

[www.tysonmendes.com](http://www.tysonmendes.com)

*This email and any attachments are from the law firm of Tyson & Mendes, LLP. This email is intended only for the use of the addressee and may contain information that is proprietary, confidential, privileged, or protected by state or federal law. If you are not the intended recipient, any disclosure, copying, distribution, or use of the contents of this email and attachments are prohibited. If you received this email in error, please notify us by reply email immediately so we may arrange for the retrieval of the information.*

# EXHIBIT A

1 ELAINE H. MARZOLA, ESQ.  
Nevada Bar No. 12442  
2 YVONNE RUIZ, ESQ.  
Nevada Bar No. 14111  
3 **MARZOLA & RUIZ LAW GROUP PLLC**  
4 8975 S. Pecos Road, Suite 6B  
Henderson, Nevada 89074  
5 Telephone: (702) 707-4878  
Facsimile: (702) 846-0776  
6 elaine@marzolaruizlaw.com  
7 yvonne@marzolaruizlaw.com  
*Attorneys for Plaintiff*

8  
9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 ELIZABETH TUCKER, individually;

CASE NO.: 2:23-cv-01794-JAD-DJA

12 Plaintiff,

13 vs.

14 IMI MIRACLE MILE LLC DBA  
MIRACLE MILE SHOPS, a Foreign  
Limited-Liability Company;  
15 Environmental Service Concepts, LLC,  
a Foreign Limited-Liability Company;  
and DOES I through X, inclusive,

16 Defendants.  
17

18 **SECOND AMENDED COMPLAINT**

19 NOW COMES, Plaintiff, ELIZABETH TUCKER, by and through her  
20 attorneys of record, ELAINE H. MARZOLA, ESQ., and YVONNE RUIZ, ESQ.,  
of the MARZOLA & RUIZ LAW GROUP, PLLC., hereby complains against  
21 Defendants, as follows:

22 1. At all times mentioned, Plaintiff, ELIZABETH TUCKER, was and is  
23 a resident of Wilson, North Carolina.  
24



1           2.     Plaintiff is informed and believes, and thereon alleges, that at all times  
2 relevant hereto, Defendant, IMI MIRACLE MILE LLC. dba MIRACLE MILE  
3 SHOPS, was and is a foreign Limited-Liability Company corporation doing  
4 business in Clark County, State of Nevada.

5           3.     Plaintiff is informed and believes, and thereon alleges, that at all times  
6 relevant hereto, Defendant, ENVIRONMENTAL SERVICE CONCEPTS, LLC,  
7 was and is a foreign Limited-Liability Company corporation doing business in  
8 Clark County, State of Nevada.

9           4.     All the facts and circumstances that give rise to the subject lawsuit  
10 occurred in Clark County, Nevada.

11           5.     The true names of DOES I through X, their citizenship and capacities,  
12 whether individual, corporate associate, partnership or otherwise, are unknown to  
13 Plaintiff who therefore sues these Defendants by such fictitious names. Plaintiff is  
14 informed and believes, and therefore alleges, that each of the Defendants,  
15 designated as DOES I through X, are or may be, legally responsible for the events  
16 referred to in this action, and caused damages to the Plaintiff, as herein alleged,  
17 and Plaintiff will ask leave of this Court to amend the Complaint to insert the true  
18 names and capacities of such Defendants, when the same have been ascertained,  
19 and to join them in this action, together with the proper charges and allegations.

20           6.     DOES I through III are employers of Defendants who may be liable  
21 for Defendants' negligence pursuant to NRS 41.130, which states:

22           Except as otherwise provided in NRS 41.745, whenever any person  
23 shall suffer personal injury by wrongful act, neglect or default of  
24 another, the person causing the injury is liable to the person injured  
for damages; and where the person causing the injury is employed by  
another person or corporation responsible for his conduct, that person  
or corporation so responsible is liable to the person injured for  
damages.





1           7. DOES IV through X may be individuals or entities who owned,  
2 managed, operated, controlled, supervised, inspected, maintained, consulted,  
3 advised, furnished, repaired, cleaned and/or were responsible for the property  
4 and/or premises known as Miracle Mile Shops located at 3663 Las Vegas Blvd S,  
5 Las Vegas, NV 89109 (hereinafter "Subject Property") and/or are in some other  
6 way responsible for Plaintiff's damages.

7           8. Plaintiff is further informed and believes, and on that basis alleges,  
8 that certain witnesses are known to Plaintiff as witnesses. However, Plaintiff does  
9 not yet know whether or not particular witnesses have culpability in this matter at  
10 this time. However, once Plaintiff has determined the true culpability of one or  
11 more of the DOE Defendants, Plaintiff will amend Plaintiff's complaint to set forth  
12 facts and claims alleging the actual culpability and to substitute such witnesses for  
DOE Defendants.

13           9. At all times mentioned herein, Defendants, and each of them, were  
14 agents, servants, partners, employees or joint ventures of every other Defendants  
15 and/or DOE Defendants, and at all times mentioned herein were acting within the  
16 course and scope of said agency, partnership, employment, or joint venture, with  
17 knowledge, permission and consent of all said Defendants and/or DOE Defendants  
18 and each of them, and in furtherance of the Defendants' and/or DOE Defendants'  
business.

### 19                           **FACTUAL ALLEGATIONS**

20           10. On November 15, 2021, Plaintiff, ELIZABETH TUCKER, was an  
21 invitee at the Subject Property when she slipped on a clear liquid that had spilled  
22 onto the steps of the escalator by Chick-Fil-A.

23           11. On November 15, 2021, Defendant, IMI MIRACLE MILE LLC. dba  
24 MIRACLE MILE SHOPS, owned, controlled and maintained the Subject Property  
where Plaintiff was injured.



1           12. Defendant, IMI MIRACLE MILE LLC. dba MIRACLE MILE  
2 SHOPS hired Defendant ENVIRONMENTAL SERVICE CONCEPTS, LLC to  
3 maintain the Subject Property where Plaintiff was injured at the time of the subject  
4 incident.

5                           **FIRST CAUSE OF ACTION**  
6                           **(Negligence)**

7           13. Plaintiff repeats and realleges each and every allegation set forth  
8 above as through each were set forth herein.

9           14. On November 15, 2021, while at the Subject Property, Plaintiff  
10 slipped and fell due to foreign substance on the escalator steps resulting in injuries  
11 to Plaintiff.

12           15. Defendants and/or DOE Defendants had a duty to maintain the  
13 Subject Property in such a manner as to provide a safe environment for their  
14 invited guests.

15           16. Defendants and/or DOE Defendants breached their duty in that they  
16 negligently failed to design, construct, control, supervise, inspect, maintain,  
17 manage, operate, consult, advise, furnish, clean and/or repair the Subject Property,  
18 thereby allowing a hazardous condition which resulted in Plaintiff's injuries.

19           17. Defendants and/or DOE Defendants' negligence was the actual and  
20 proximate cause of injuries incurred by Plaintiff, resulting in medical expenses,  
21 permanent injury, lost wages and pain and suffering in an amount in excess of  
22 \$15,000.00.

23           18. It has been necessary for Plaintiff to retain the services of counsel to  
24 represent her in the above-entitled matter, and he should be awarded reasonable  
attorneys' fees and costs of suit incurred herein.

///

///



**SECOND CAUSE OF ACTION**  
**(Premises Liability)**

19. Plaintiff repeats and realleges each and every allegation set forth above as through each were set forth herein.

20. Defendants and/or DOE Defendants had a duty to maintain the Subject Property in a reasonably safe condition and was negligent in doing so by not keeping the floors/escalator in a safe condition.

21. Defendants and/or DOE Defendants had a duty to maintain the Subject Property in a way that would not cause injury to patrons using the premises.

22. Plaintiff's injuries are of the type reasonably foreseeable as a result of the dangerous condition.

23. Defendants and/or DOE Defendants had actual or constructive notice of the dangerous condition of the area prior to the time of Plaintiff's injury.

24. Plaintiff's injuries were caused solely and proximately by the Defendant and/or DOE Defendants' negligence and without any contributory negligence on the part of the Plaintiff.

25. Defendants and/or DOE Defendants' negligence was the actual and proximate cause of injuries incurred by Plaintiff, resulting in medical expenses, permanent injury, lost wages and pain and suffering in an amount in excess of \$15,000.00.

26. It has been necessary for Plaintiff to retain the services of counsel to represent her in the above-entitled matter, and he should be awarded reasonable attorneys' fees and costs of suit incurred herein.

**WHEREFORE**, Plaintiff, expressly reserving the right to amend this complaint prior to or at the time of trial of this action to insert those items of



1 damage not yet fully ascertainable, prays judgment against all Defendants, and  
2 each of them, as follows:

- 3 1. For general damages sustained by Plaintiff in an amount in excess of  
4 \$15,000.00;
- 5 2. For special damages sustained by Plaintiff in an amount in excess of  
6 \$15,000.00;
- 7 3. For reasonable attorney's fees and costs;
- 8 4. For interest at the statutory rate; and
- 9 5. For such other relief as the Court deems just and proper.

10 DATED: May 27, 2024.

**MARZOLA & RUIZ LAW GROUP**

11  
12 ELAINE H. MARZOLA, ESQ.  
13 Nevada Bar No. 12442  
14 YVONNE RUIZ, ESQ.  
15 Nevada Bar No. 14111  
16 *Attorneys for Plaintiff*  
17  
18  
19  
20  
21  
22  
23  
24



**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5, I hereby certify that I am an employee of the MARZOLA & RUIZ LAW GROUP, PLLC and that on the 29<sup>th</sup> day of February, 2024, I caused the foregoing, **FIRST AMENDED COMPLAINT** to be served via electronic means upon the following:

Griffith H. Hayes, Esq.  
**TYSON & MENDES LLP**  
2835 St. Rose Pkwy., Suite 140  
Henderson, NV 89052  
Telephone: (702) 724-2648  
Facsimile: (702) 410-7684  
*Attorneys for Defendant IMI Mirale*  
*Mall d/b/a Miracle Mile Shops*

*/s/ Yvonne Ruiz*

An employee of the MARZOLA & RUIZ

